

MISSING PERSONS ACT

ACT MAR. 7, 1942, C. 166. 56 STAT. 143

See.

1001. Definitions.
1002. Missing, interned, or captive persons; continuance of pay and allowances.
1003. Same; continuance or establishment by department head of allotments for dependents and insurance.
1004. Same; continuance, suspension, or resumption of pay and allowances by department head; limitation on duration of allotments.
1005. Same; departmental review; continuance of missing status or finding of death after year's absentee; date of termination of pay and allowances.
1006. Same; payment of allotments in case of captured or interned persons until death or return to jurisdiction; pay and allowances and allotments of persons continued in missing status.
1007. Authority of department head to create new allotments and to continue or change amounts of old allotments.
1008. Penalty for fraudulent receipt of payments.
1009. Determinations by department heads or designees; conclusiveness relative to status of personnel, payments, or death.
1010. Same; fact of dependency; authority to determine; conclusiveness.
1011. Settlement of accounts.
1012. Moving dependents and effects of persons dead, injured, captured, etc.; appropriations chargeable with cost.
- 1012a. Authorization of claims for reimbursement; ratification of prior payments.
1013. Income tax deferment for certain persons in Government service not in position to pay taxes because of service.
1014. Application of Act to persons besieged by enemy.
1015. Effective date and termination of Act.
1016. Amendment of Civil Service Retirement Act.
1017. Authorization of lock for Saint Marys Falls Canal, Michigan.
1018. Repealed.

Historical Note

Application to Persons Inducted under the Selective Service Act of 1948. Notwithstanding the provisions of section 3 of Joint Res. July 25, 1947, c. 327, 61 Stat. 451, which provided that in the interpretation of sections 1001-1016 of this Appendix the date July 25, 1947 shall be deemed to be the termination date of any state of war theretofore declared by Congress and of national emergencies proclaimed by the President on Sept. 8

1939, and May 27, 1941, section 4(e) of Act June 24, 1948, c. 625, Title I, 62 Stat. 608, section 454(e) of this Appendix provided in part that sections 1001-1171 of this Appendix were deleted from the operation of section 3 of said Joint Resolution July 25, 1947, and were made applicable to persons inducted into the armed forces under the provisions of the Selective Service Act of 1948, sections 451-454 and 465-471 of this Appendix.

References in Text
Training and Service
referred to in the text,
as expired. Similar p-
contained in the Select
List, sections 451-454 a-
Appendix.

1947 Amendment. Sub
by Act May 16, 1947, ex-
clude within the provi-
1901-1917 of this Appendix
and employees of the U.
ment of Guam.

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MISSING PERSONS ACT Tit. 50, App. § 1001

§ 1001. Definitions

For the purpose of this Act [sections 1001-1016 of this Appendix]—

(a) the term "person" means (1) commissioned officer, warrant officer, enlisted person (including persons selected under the Selective Training and Service Act, as amended), member of the Army or Navy Nurse Corps (female), wherever serving; (2) commissioned officer of the Coast and Geodetic Survey or the Public Health Service; and (3) civilian officers and employees of departments and civilian officers and employees of the United States Naval Government of Guam, during such time as they may be assigned for duty or serving outside the continental limits of the United States or in Alaska, exclusive of part-time or intermittent employees or native labor casually hired on an hourly or per diem basis;

(b) the term "active service" means active service in the Army, Navy, Marine Corps, and Coast Guard of the United States, including active Federal service performed by personnel of the regular and reserve components of these forces, the Coast and Geodetic Survey, the Public Health Service, and active Federal service performed by the civilian officers and employees defined in paragraph (a) (3) above;

(c) the term "dependent" as used in this Act [sections 1001-1016 of this Appendix] includes a lawful wife, unmarried child under twenty-one years of age. It includes also a dependent mother, father, or unmarried dependent stepchild or adopted child under twenty-one years of age, or such dependent as has been designated in official records, or an individual determined to be dependent by the head of the department concerned, or subordinate designated by him;

(d) the term "department", including such term when used in the amendment made by section 16 [section 1016 of this Appendix], means any executive department, independent establishment, or agency (including corporations) in the executive branch of the Federal Government. Mar. 7, 1942, c. 166, § 1, 56 Stat. 143; July 1, 1944, c. 371, § 1, 58 Stat. 679; May 16, 1947, c. 70, § 1, 61 Stat. 96.

Historical Note

References in Text. The Selective Training and Service Act, as amended, referred to in the text, has been omitted as expired. Similar provisions are now contained in the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix.

1944 Amendment. Subsec. (a)(3) amended by Act July 1, 1944, cited to text, which added "exclusive of part-time or intermittent employees or native labor casually hired on an hourly or per diem basis".

Subsec. (c) amended by Act July 1, 1944, cited to text, which defined dependent in precise terms, instead of referring to "U.S. Code, title 37 sections 8 and 8(a)".

Effective date of 1944 Amendments, Section 8 of Act July 1, 1944, cited to

Tit. 50, App. § 1001 MISSING PERSONS ACT

text, provided: "The foregoing amendments to such Act [sections 1001-1017 of this Appendix] shall be effective in all respects as provided in section 15 of the Act of March 7, 1942 (56 Stat. 147), as amended (56 Stat. 1693; 50 App. U.S.C., Supp. III, 1015), and payments under the retroactive provisions of such amendments are authorized to be paid from appropriations currently available."

Short title. Section 7 of Act July 1, 1944, cited to text, amended Act Mar. 7, 1942, cited to text, by adding a new section thereto to read: "See 10. This Act [Sections 1001-1017 of this Appendix] may be cited as the 'Missing Persons Act'."

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding this section.

Appropriations. Section 2 of Act May 16, 1947, cited to text, provided: "Appropriations which have been made or which may be made for the Navy Department and the naval service shall be available and may be used for the payment of such sums as may have accrued prior to July 21, 1944, to the credit of, and which remain unpaid to, civilian officers and employees of the United States Naval Government of Guam under the provisions and the authority of Public Law 490 of the Seventy-seventh Congress approved March 7, 1942 (56 Stat. 143), as heretofore and herein amended [sections 1001-1017 of this Appendix]."

Transfer of functions. All functions of all officers of the Department of the Treasury, and all functions of all agen-

cies and employees of such Department were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. —, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Coast Guard, referred to in this section, is generally in service in the Treasury Department, by such Plan excepted, from the transfer of the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 16, Coast Guard.

The functions of all officers of the Department of Commerce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 5, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in note under section 591 of Title 5, Executive Departments and Government Officers and Employees. The Coast and Geodetic Survey, referred to in this section, is an agency within the Department of Commerce.

Congressional Comment: For legislative history and purpose of Act July 1, 1944, cited to text, see 1944 U.S. Code Cong. Service, p. 1204. See, also, Act May 16, 1947, 1947 U.S. Code Cong. Service, p. 1057.

§ 1002. Missing, interned, or captive persons; continuance of pay and allowances

Any person who is in active service and who is officially determined to be absent in a status of missing, missing in action, interned in a neutral country, captured by an enemy, beleaguered or besieged shall, for the period he is officially carried or determined to be in any such status, be entitled to receive or to have credited to his account the same pay and allowances to which he was entitled at the beginning of such period of absence or may become entitled thereafter, and entitlement to pay and allowances shall terminate upon the date of receipt by the department concerned of evidence that the person is dead or upon the date of death prescribed or determined under provisions of section 5 of this Act [section 1005 of this Appendix]: *Provided*, That such entitlement to pay and allowances shall not terminate upon expiration of term of service during

absence and in case of absence earlier than the date of departure there shall be no entitlement during which such person is on his post of duty without the Government for any period for such period. March 7, 1942, § 2, 56 Stat. 679.

1944 Amendment. Act May 16, 1944, cited to text, amended section 1002, providing, among other things, that the date of pay and allowances

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding this section.

Railroad retirement benefit, section 228e(f) of Title 45, Railroad Retirement Act.

Contract of gratuity 1
Per diem allowances 2
Rate of allowances 3

1. Contract or gratuity

Compensation to which a soldier was entitled under section 1002 of this Appendix for the period he was reported missing until official date of death as a contractual obligation, not as a gratuity payable to executor of estate. *See* *Contract of gratuity*, *U.S. Code Cong. Service*, 1947, 206 S.W.2d 415.

2. Per diem allowances

Where at time a soldier was made a prisoner of the enemy, he was entitled to receive allowances for quarters as if he had become a part of the enemy's army. *See* *Contract of gratuity*, *U.S. Code Cong. Service*, 1947, 206 S.W.2d 415.

§ 1003. Same; continuation of allowances

For the period the person is in a status of missing, missing in action, interned in a neutral country, captured by an enemy, beleaguered or besieged, pay and allowances shall be continued prior to the beginning of the period of purchase of United States property as otherwise herein provided.

Tit. 50a App. U.S.C.

MISSING PERSONS ACT Tit. 50, App. § 1003

S ACT

nd employees of such Department transferred, with certain exceptions, to the Secretary of the Treasury, who is vested in him to authorize the continuance or the performance of such functions, by any of such officers, and employees, by 1930 R. L. No. 20, §§ 1, 2, eff. July 31, 1932, 46 Stat. 1, set out in section 241 of Title 5, Executive Departments and Government Employees. The Coast Guard, referred to in this section, is generally in the Treasury Department, Plan excepted, from the regulations of the Coast Guard, and Commandant thereof, when the Guard is operating as a part of it under sections 1 and 3 of Title 5.

functions of all officers of the Bureau of Commerce and all functions of officers and employees of such Bureau, were, with a few exceptions, referred to the Secretary of Commerce, power vested in him to authorize the continuance or the performance of his functions by any of such agencies and employees, by 1930 R. L. No. 5, §§ 1, 2, eff. May 24, 1930, 43 Stat. 1263, set out under section 591 of Title 5, Executive Departments and Government Employees. The Coast and Geodetic Survey, referred to in this section, is an agency within the Department of Commerce.

Sessional Comment: For legislative history and purpose of Act July 3, 1944, referred to text, see 1944 U.S. Code Service, p. 1204. See, also, Act of 1947, 1947 U.S. Code Cong. Sess. 1957.

PERSONS; continuance of pay

and who is officially determined missing in action, interred, buried, beleaguered or besieged or determined to be dead or to have credited to his credit which he was entitled at the time or may become entitled to allowances shall terminate at the time concerned of evidence of death prescribed or determined by this Act [section 1005 of this title] to pay and allowances of term of service during

absence and in case of death during absence shall not terminate earlier than the dates herein prescribed: *Provided further*, That there shall be no entitlement to pay and allowances for any period during which such person may be officially determined absent from his post of duty without authority and he shall be indebted to the Government for any payments from amounts credited to his account for such period. Mar. 7, 1942, c. 166, § 2, 56 Stat. 144; July 1, 1944, c. 371, § 2, 58 Stat. 679.

Historical Note

1944 Amendment. Act July 1, 1944, added to text, amended section generally, providing, among other things, the termination date of pay and allowances.

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

Cross References

Railroad retirement benefit of persons to whom this section applies, see section 228e(f) of Title 45, Railroads.

Notes of Decisions

Contract of gratuity 1
Per diem allowances 2
Rate of allowances 3

1. Contract or gratuity

Compensation to which missing soldier was entitled under sections 1001 et seq. of this Appendix for period from date he was reported missing in action until official date of death was due him as a contractual obligation of the government and not as a "gratuity" and was payable to executor of his estate and became a part of estate. *Campbell v. Oliphant*, 1047, 206 S.W.2d 406, 185 Tenn. 415.

2. Per diem allowances

Where at time army sergeant was made a prisoner of the Japanese army he was entitled to receive per diem allowances for quarters and subsistence

given to permanently assigned personnel, sergeant was, under this section providing for continued pay and allowances to military personnel while in captivity, entitled to have credited to his pay account during period of captivity, allowances for subsistence and quarters. *Dilks v. U. S.*, Ct.Cl.1950, 91 F.Supp. 726, opinion superseded 94 F.Supp. 663.

3. Rate of allowances

Under this section, Army sergeant who at time of capture by enemy had been more than 31 days on temporary duty with allowances for quarters and subsistence so as to have reverted to actual pay status of permanently assigned enlisted man not provided with rations and quarters in kind was entitled during captivity to allowances at rates set forth in regulations in force at beginning of captivity with the increases provided in executive orders issued during captivity. *Dilks v. U. S.*, Ct.Cl.1950, 94 F.Supp. 663.

§ 1003. Same; continuance or establishment by department head of allotments for dependents and insurance

For the period that any person is entitled under section 2 of this Act [section 1002 of this Appendix] to receive or be credited with pay and allowances, such allotments as may have been executed prior to the beginning of his absence, including allotments for the purchase of United States savings bonds, may be continued, except as otherwise herein provided, and notwithstanding any expiration

Tit. 50, App. § 1003 MISSING PERSONS ACT

of a period for which an allotment had been executed. In the absence of an allotment or when an allotment is insufficient for any purpose authorized by the head of the department concerned, such new allotments or increases as circumstances are deemed to warrant may be authorized by the head of the department concerned, or such subordinate as he may designate, payable during any period of the absent person's entitlement to pay and allowances under section 2 of this Act [said section]: *Provided*, That the aggregate of all allotments in effect, from pay and allowances of an absent person, does not exceed the amount of pay and allowances such absent person would be permitted to allot under regulations of the department concerned: *Provided further*, That any premium paid by the Government on insurance issued on the life of a person, which is unearned by reason of being for a period subsequent to the date of death of such person, shall revert to the appropriation of the department concerned. Mar. 7, 1942, c. 166, § 3, 56 Stat. 144; Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092; July 1, 1944, c. 371, § 3, 58 Stat. 680.

Historical Note

1941 Amendment. Act July 1, 1941, cited to text, amended section generally.

1942 Amendment. Act Dec. 24, 1942, cited to text, amended provisos.

Effective date of 1942 Amendment. Section 2 of Act Dec. 24, 1942, cited to text, provided: "This Act [Act Dec. 24, 1942] shall be effective in all respects as provided in section 15 of the Act of

March 7, 1942 (Public Law 480, Seventy-seventh Congress) [section 1015 of this Appendix]."

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

§ 1004. Same; continuance, suspension, or resumption of pay and allowances by department head; limitation on duration of allotments

When circumstances are deemed to justify such action in the interests of a person entitled to receive or be credited with pay and allowances under section 2 of this Act [section 1002 of this Appendix], in the interests of the dependents of such person, or in the interests of the Government, the head of the department concerned, or such subordinates as he may designate, may direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of payments of allotments from the pay and allowances of such person, subject to the provisions of section 6 of this Act [section 1006 of this Appendix]. Mar. 7, 1942, c. 166, § 4, 56 Stat. 144; Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092; July 1, 1944, c. 371, § 4, 58 Stat. 680.

Historical Note

1944 Amendment. Act July 1, 1944, cited to text, amended section generally, providing, among other changes, that the head of the department or any designated subordinates may initiate, discontinue, increase or decrease payments.

1942 Amendment. Act Dec. 24, 1942, cited to text, amended second sentence.

Effective date of 1942 Amendment. Amendment by Act Dec. 24, 1942, cited to text, as effective Sept. 8, 1943, see note under section 1003 of this Appendix.

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Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948.

§ 1005. Same; department head; or finding of death; limitation on duration of pay and allowances

When the twelve month absence is about to expire [in action] and no official record of the person being interned has been made, the head of the department concerned shall cause a full review to be made, such review and when the period of absence has expired, or following any such review, shall be made whenever warranted by circumstances, the head of the department may direct the continuance of the pay and allowances of the person, or may reasonably be presumed to be dead, a finding of death. When a person is presumed to be dead, the date upon which death is presumed to have occurred shall be the day following the date of termination of twelve months, or in case of death, the date when it has been continued as hereinbefore provided by the head of the department. Dec. 24, 1942, c. 828, § 5, 56 Stat. 1092.

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1942 Amendment. Act Dec. 24, 1942, cited to text, amended section in this connection.

Effective date of 1942 Amendment. Amendment by Act Dec. 24, 1942, effective Sept. 8, 1943, see note under section 1003 of this Appendix.

Not

Back pay not gratuity 1
Finding of death 2, 3
Effect 3
Purpose 3

1. Back pay not gratuity

Pay due soldier at presumptive date of death and paid to executrix of his estate, constituted part of his estate paid under will or inheritance law and subject to state transfer inheritance and not exempt therefrom as a gratuity. In re Miller's Estate, 1947, 61 A.2d 350 Pa. 50.

Revised

PERSONS ACT

nt had been executed. In the absence of an allotment is insufficient for the department concerned, such circumstances are deemed to warrant the department concerned, or such payables during any period of time and allowances under section 1001. That the aggregate of all allowances of an absent person and allowances such absent person under regulations of the department, plus any premium paid by the government for the life of a person, which is for a period subsequent to the date of the appropriation of the department. Mar. 7, 1912 (Public Law 490, Seventy-eighth Congress) [section 1015 of this Appendix].

Note

March 7, 1912 (Public Law 490, Seventy-eighth Congress) [section 1015 of this Appendix].

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

sion, or resumption of pay and allowances; limitation on duration

to justify such action in the interest or be credited with pay and allowances [section 1002 of this Appendix] of such person, or in the interest of the department concerned, or may direct the initiation, decrease, suspension, or resumption of section 6 of this Act. Mar. 7, 1942, c. 166, § 4, 56 Stat. 1092; July 1, 1944, c. 371, § 4.

Note

1942 Amendment. Act Dec. 24, 1942, 1 to text, amended second sentence effective date of 1942 Amendment by Act Dec. 24, 1942, cited ext. as effective Sept. 8, 1939, see under section 1003 of this Appendix.

MISSING PERSONS ACT Tit. 50, App. § 1005

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service

Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

§ 1005. Same; departmental review; continuance of missing status or finding of death after year's absence; date of termination of pay and allowances

When the twelve months' period from date of commencement of absence is about to expire in any case of a person missing or missing in action [and no official report of death or of being a prisoner or of being interned] has been received, the head of the department concerned shall cause a full review of the case to be made. Following such review and when the twelve months' absence shall have expired, or following any subsequent review of the case which shall be made whenever warranted by information received or other circumstances, the head of the department concerned is authorized to direct the continuance of the person's missing status, if the person may reasonably be presumed to be living, or is authorized to make a finding of death. When a finding of death is made it shall include the date upon which death shall be presumed to have occurred for the purposes of termination of crediting pay and allowances, settlements of accounts, and payments of death gratuities and such date shall be the day following the day of expiration of an absence of twelve months, or in cases in which the missing status shall have been continued as hereinbefore authorized, a day to be determined by the head of the department. Mar. 7, 1942, c. 166, § 5, 56 Stat. 145; Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092.

Historical Note

1942 Amendment. Act Dec. 24, 1942, cited to text, amended section in its entirety.

Effective date of 1942 Amendment, Amendment by Act Dec. 24, 1942, as effective Sept. 8, 1939, see note under section 1003 of this Appendix.

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

Notes of Decisions

Back pay not gratuity 1
Finding of death 2, 3
Effect 3
Purpose 2

2. Finding of death--Purpose

Section 1002 of this Appendix and this section providing that one in military service who is missing in action, and as to whom there is no official report of death, shall have his pay and allowance credited to his account for one year, and that after the year the head of his department shall review the case and find him either dead or still missing, was not intended by Congress to authorize a finding of presumptive death for any other purpose than those specified in the act, or to attempt to control the decisions of the courts in litigation not relevant to the congressional purpose. *In re Thornburg's Estate*, 1947, 51 A.2d 745, 250 Pa. 66.

1. Back pay not gratuity

Pay due soldier at presumptive date of death and paid to executrix of his estate constituted part of his estate passing under will or inheritance law and was subject to state transfer inheritance tax and not exempt therefrom as a gratuity. *In re Miller's Estate*, 1947, 51 A.2d 745, 250 Pa. 66.

Tit. 50, App. § 1005 MISSING PERSONS ACT

8. — Effect

Section 1002 of this Appendix and this section providing that one in military service who is missing in action, and as to whom there is no official report of death, shall have his pay and allowance credited to his account for one year, and that after the year the head of his department shall review the case and find

him either dead or still missing, do not require Oregon court, for inheritance purposes, to hold that missing navigate did not die until a year had elapsed since he was first missing, and Oregon court was required to give the presumption only prima facie effect and was authorized to determine as near as possible the date of death. *Thornburg*, 1941, 208 P.2d 349, 186 Or. 576.

§ 1006. Same; payment of allotments in case of captured or interned persons until death or return to jurisdiction; pay and allowances and allotments of persons continued in missing status

When it is officially reported by the head of the department concerned that a person missing under the conditions specified in section 2 of this Act [section 1002 of this Appendix] is alive and in the hands of an enemy or is interned in a neutral country, the payment authorized by section 3 of this Act [section 1003 of this Appendix] are, subject to the provisions of section 2 of this Act [section 1002 of this Appendix], authorized to be made for a period not to exceed beyond the date of the receipt by the head of the department concerned of evidence that the missing person is dead or has returned to the controllable jurisdiction of the department concerned. When a person missing or missing in action is continued in a missing status under section 5 of this Act [section 1005 of this Appendix], such person shall continue to be entitled to have pay and allowances credited as provided in section 2 of this Act [section 1002 of this Appendix] and payments of allotments, as provided in section 3 of this Act [section 1003 of this Appendix], are authorized to be continued, increased, or initiated. Mar. 7, 1942, c. 166, § 6, 56 Stat. 145; Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092.

Historical Note

1942 Amendment. Act Dec. 24, 1942, cited to text, amended section by adding last sentence.

Effective date of 1942 Amendment. Amendment by Act Dec. 24, 1942, is effective Sept. 8, 1943, see note under section 1003 of this Appendix.

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 457-471 of this Appendix, see note preceding section 1001 of this Appendix.

Notes of Decisions

Date of death 2
Payments or allotments stopped 1

his name taken from the payroll. *Jule v. Canfield Trust Co.*, 1918, 62 A.2d 2 N.J.Super. 214.

1. Payments or allotments stopped

Sections 1003 and 1009 of this Appendix authorizing a finding of death of a missing person and date upon which such death shall be presumed to have occurred merely enable the government to determine when payment or allotments of a missing person should be stopped and

2. Date of death

Under N.J.S.A. 2:101-1.1 providing for certificate of death authorized by this section should be received in state courts as presumptive evidence of death of person named therein, finding of adjutant general of Department of the Army was binding only as to date of disappearance of person named therein and as to fact

of his death but not as to date. *Lukens v. Lukens*, 1948, 62 A.2d 899.

Sections 1001-1017 acted to enable government to determine when payment or allotments should be stopped and stricken from payrolls to determine when

§ 1007. Authorization to continue

The head of the department may make payment of pay and allowances (other than those provided by this Act [section 1005] for allowances) to persons heretofore or hereafter in the service of any armed forces on or after November 1941, without the consent of the inductee, upon specific request of the head of the department for the well-being and safety of the inductee. Mar. 7, 1942.

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948. See note preceding section 1001 of this Appendix.

§ 1008. Penalty

Whoever shall violate any provision of this Act [section 1008] shall be fined not more than \$10,000, or both. Mar. 7, 1942.

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948. See note preceding section 1001 of this Appendix.

§ 1009. Determination of date of death

The head of the department may designate a date of death necessary in the determination of the date of death of a missing person. This section does not affect the determinations of death, as to a missing person.

5 ACT

MISSING PERSONS ACT Tit. 50, App. § 1000

of his death but not as to date of his death. *Lukens v. Camden Trust Co. et al.* 1948 62 A.2d 886, 2 N.J.Super. 214.

Sections 1001-1017 of this Appendix entitled to enable federal government to determine when pay of a missing person should be stopped and his name stricken from payroll were not applicable to determine whether serviceman died.

on day he went on bombing mission from which he never returned, which would preclude his estate from sharing in residuary estate of a decedent as having died before decedent, or whether soldier died after decedent. *Iukens v. Camden Trust Co et al.*, 1948, 62 A.2d 880, 2 N.J. Super. 214. See, also, *In re Wood's Estate*, 1946, 62 A.2d 883.

§ 1007. Authority of department head to create new allotments and to continue or change amounts of old allotments

The head of the department concerned is authorized to direct the payment of new allotments from the pay of persons in active service (other than persons entitled under section 2 or section 14 of this Act [section 1002 or 1014 of this Appendix] to receive pay and allowances) to increase or decrease the amount of any allotment heretofore or hereafter made by such persons and to continue payment of any allotments of such person which may have expired in November 1941 and any month subsequent thereto, with or without the consent of such person, subject in all cases to termination by specific request of such persons, whenever in the judgment of the head of the department such action is considered essential for the well-being and protection of dependents of persons in active service. Mar. 7, 1942, c. 166, § 7. 56 Stat. 145.

Historical Note

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

§ 1008. Penalty for fraudulent receipt of payments

Whoever shall obtain or receive any money, check, or allotment under this Act [sections 1001-1016 of this Appendix], without being entitled thereto, with intent to defraud shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or both. Mar. 7, 1942. c. 166. § 8. 56 Stat. 145.

Historical Note

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

§ 1009. Determinations by department heads or designees; conclusiveness relative to status of personnel, payments, or death

The head of the department concerned, or such subordinate as he may designate, shall have authority to make all determinations necessary in the administration of this Act [sections 1001-1016 of this Appendix], and for the purposes of this Act [said sections] determinations so made shall be conclusive as to death or finding of death, as to any other status dealt with by this Act [said sections].

TIT. 50, APP. § 1009 MISSING PERSONS ACT

and as to any essential date including that upon which evidence or information is received in such department or by the head thereof. The determination of the head of the department concerned, or of such subordinate as he may designate, shall be conclusive as to whether information received concerning any person is to be construed and acted upon as an official report of death. When any information deemed to establish conclusively the death of any person is received in the department concerned, action shall be taken thereon as an official report of death, notwithstanding any prior action relating to death or other status of such person. If the twelve months' absence prescribed in section 5 of this Act [section 1005 of this Appendix] has expired, a finding of death shall be made whenever information received, or a lapse of time without information, shall be deemed to establish a reasonable presumption that any person in a missing or other status is no longer alive. Payment or settlement of an account made pursuant to a report, determination, or finding of death shall not be recovered or reopened by reason of a subsequent report or determination which fixes a date of death except that an account shall be reopened and settled upon the basis of any date of death so fixed which is later than that used as a basis for prior settlement. Determinations are authorized to be made by the head of the department concerned, or by such subordinate as he may designate, of entitlement of any person, under provisions of this Act [sections 1001-1016 of this Appendix], to pay and allowances, including credits and charges in his account, and all such determinations shall be conclusive: *Provided*, That no such account shall be charged or debited with any amount that any person in the lands¹ of an enemy may receive or be entitled to receive from, or have placed to his credit by, such enemy as pay, wages, allowances, or other compensation: *Provided further*, That where the account of any person has been charged or debited with allotments paid pursuant to this Act [said sections] any amount so charged or debited shall be recrated to such person's account in any case in which it is determined by the head of the department concerned, or such subordinate as he may designate, that payment of such amount was induced by fraud or misrepresentation to which such person was not a party. When circumstances warrant reconsideration of any determination authorized to be made by this Act [said sections] the head of the department concerned, or such subordinate as he may designate, may change or modify a previous determination. Excepting allotments for unearned insurance premiums, any allotments paid from pay and allowances of any person for the period of the person's entitlement under the provisions of section 2 of this Act [section 1002 of this Appendix] to receive or have credited such pay and allowances shall not be subject to collection from the allottee as overpayments when payment thereof has been occasioned by delay in receipt of evidence of death, and any allotment payments for periods subsequent to the termination, under this Act [sections 1001-1016 of this Appendix] or otherwise, of entitlement

534

¹ So in original. Probably

1911 Amendment. Act Ju
cited to text, amended section

Application of section to Sale of Act of 1948. Section as ap-

1. Conclusiveness of determinants

Under this section, determine commanding general of Philippines Command that plaintiff, a Philippine Scout, was not in status during period of participation from October 1, 1942,

§ 1010. Same; fact of
clusiveness

The determination of of this Act [sections 100 of the fact of dependence months' death gratuities of the fact of dependence laws providing for the payments to enlisted persons Coast Guard of the United States, based upon dependency, shall be concerned, or by such suit, determination so made shall be final. 166, § 10, 56 Stat. 145; J.

Proposed to

X ACT

MISSING PERSONS ACT Tit. 50, App. § 1010

that upon which evidence is
sent or by the head thereof, or
department concerned, or
e, shall be conclusive as to
any person is to be enti-
tled to the payment of death. When any in-
dividual dies, the payment of death of any person
such action shall be taken there-
withstanding any prior action
such person. If the two
5 of this Act [section ten]
ing of death shall be made
use of time without informa-
"reasonable presumption that
is no longer alive. Payment
uant to a report, determina-
covered or reopened by rea-
nation which fixes a date of
reopened and settled upon the
ch is later than that used as
nations are authorized to be
neered, or by such subordi-
nt of any person, under pro-
6 of this Appendix], to pay
charges in his account, and
ive: *Provided*, That no such
any amount that any person
or be entitled to receive from
enemy as pay, wages, allow-
led further, That where the
d or debited with allotments
ens] any amount so charged
person's account in any case
of the department concerned,
nate, that payment of such
epresentation to which such
stances warrant reconsidera-
o be made by this Act [sub-
ncerned, or such subordinate
iodify a previous determina-
ed insurance premiums, any
nues of any person for the
r the provisions of section 1
lix] to receive or have credit
be subject to collection from
ment thereof has been occa-
of death, and any allotment
the termination, under this
dix] or otherwise, of entitle-

ment to pay and allowances, the payment of which has been occasioned by delay in receipt of evidence of death, shall not be subject to collection from the allottee or charged against the pay of the deceased person. The head of the department concerned, or such subordinate as he may designate, may waive the recovery of erroneous payments or overpayments of allotments to dependents when recovery is deemed to be against equity and good conscience. In the settlement of the accounts of any disbursing officer credit shall be allowed for any erroneous payment or overpayment made by him in carrying out the provisions of this Act [sections 1001-1016 of this Appendix], except sections 13, 16, 17, and 18 [sections 1013 and 1016, and former sections 1017 and 1018 of this Appendix], in the absence of fraud or criminality on the part of the disbursing officer involved, and no recovery shall be made from any officer or employee authorizing any payment under such provisions in the absence of fraud or criminality on his part. Mar. 7, 1942, c. 166, § 9, 56 Stat. 145; July 1, 1944, c. 371, § 5, 58 Stat. 680.

¹ So in original. Probably should read "hands".

Historical Note

1941 Amendment. Act July 1, 1941, cited to text, amended section generally.
Application of section to Selective Serv- inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

MATERIALS AND METHODS

1. Conclusions of determinations

Under this section, determination of commanding general of Philippine Ryukyu Command that plaintiff, a member of Philippine Scouts, was not in casualty status during period of Japanese occupation from October 1, 1942, to January 1, 1945, and was not entitled to pay for that period, was conclusive, and denial of claim was not so arbitrary and capricious as to allow suit to be brought even if permitted in such cases. Moreno v. U. S., Ct.Cl.1950, 93 F.Supp. 607.

§ 1010. Same; fact of dependency; authority to determine; conclusiveness.

The determination of the fact of dependency under the provisions of this Act [sections 1001-1016 of this Appendix], the determination of the fact of dependency for the purpose of payment of all six months' death gratuities as authorized by law, and the determination of the fact of dependency under the provisions of any and all other laws providing for the payment of pay, allowances, or other emoluments to enlisted personnel in the Army, Navy, Marine Corps, and Coast Guard of the United States where such payments are contingent upon dependency, shall be made by the head of the department concerned, or by such subordinate as he may designate, and any such determination so made shall be final and conclusive. Mar. 7, 1942, c. 166, § 10, 56 Stat. 145; July 1, 1944, c. 371, § 6, 58 Stat. 681.

Tit. 50, App. § 1010 MISSING PERSONS ACT

Historical Note

1944 Amendment. Act July 1, 1944, cited to text, amended section by inserting "the determination of the fact of dependency for the purpose of payment of all six months' death gratuities as authorized by law", and substituting "personnel" for "men" following "enlisted".

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

Transfer of functions. All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department,

were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize the performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 20, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4035, 61 Stat. 1289, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Coast Guard referred to in this section, is generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

§ 1011. Settlement of accounts

The head of the department concerned, or such person as he may designate, is authorized to settle the accounts of persons for whose account payments have been made pursuant to the provisions of sections 2 to 7, both inclusive, of this Act [sections 1002-1007 of this Appendix], and the accounts of survivors of casualties to ships, stations and military installations which result in loss or destruction of disbursing records, and such settlements shall be conclusive upon the accounting officers of the Government in effecting settlements of the accounts of disbursing officers. Mar. 7, 1942, c. 166, § 11, 56 Stat. 146.

Historical Note

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service

Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

§ 1012. Moving dependents and effects of persons dead, injured, captured, etc.; appropriations chargeable with cost

The dependents and household and personal effects of any person in active service (without regard to pay grade) who is officially reported as dead, injured, missing for a period of thirty days or more, interned in a neutral country, or captured by the enemy, upon application by such dependents, may be moved (including packing and unpacking of household effects), upon receipt by such dependents of such official report, to such location as may be determined in advance or subsequently approved by the head of the department concerned or by such persons as he may designate. The cost of such transportation, including packing and unpacking of household effects, shall be charged against appropriations currently available. In lieu of transportation authorized by this section for dependents, the head of the department concerned may authorize the payment in money of amounts equal to such commercial transportation costs.

for the whole or some kind is not furnished. When the person is dependents or household a authorized only in ization or treatment. tation shall be authorized relationship exists between dependents and the Beginning June 25, the terms "household" may include, in addition to exceed one private Government expenses is located outside the Alaska. Mar. 7, 1942, § 1(a), 60 Stat. 5

1946 Amendment. Act cited to text, amended so as to bring former second provision of which now constitutes.

1951 Amendment. Act cited to text, amended so as to make clear that dependents ceased, and missing persons, nonmilitary personnel, etc., for, even though such disappearance did not result from military or naval service, provide specific authority for transportation of dependents and military personnel without grade, to require that persons in a status of "missing" for days or more, and by

Authorization of claim August 29, 1951, see section 1012a.

§ 1012a. Authorization of prior

(a) Claims for the household and personal effects of persons missing persons incident to the death of such persons not presented for payment or rejected or disallowed. Approval of this Act or reconsideration or reexamination or reconsideration of section 12 of the M

MISSING PERSONS ACT Tit. 50, App. § 1012a

ACTIV

transferred, with certain exceptions, to the Secretary of the Treasury, invested in him to authorize the exercise or the performance of the functions, by any of such officers, and employees, by 1940 House Bill No. 20, §§ 1, 2, eff. July 31, 1940, 85 Stat. 1403, 64 Stat. 1280, set out in the margin, and to consider section 241 of Title 5, Government Employees and Government Contractors and Employees. The Coast Guard, as set out in this section, is generally in the Treasury Department, in the Plan excepted, from the exercise of the functions of the Coast Guard, the Commandant thereof, who is in the Coast Guard is operating as a part of the Navy under sections 1 and 3 of the Coast Guard.

I, or such person as he may
ounts of persons for who-
ant to the provisions of sec-
[sections 1002-1007 of this
s of casualties to ships, sta-
result in loss or destruction
nts shall be conclusive upon
t in effecting settlements of
ix 7, 1942, a. 166, § 11, 56

1948, sections 451-454 and 455 C.F.
s Appendix, see note preceding
p 1001 of this Appendix.

of persons dead, injured, or chargeable with cost personal effects of any person - grade) who is officially reported by the enemy, upon arrival (including packing and receipt by such dependents as may be determined in accordance of the department consignate. The cost of such unpacking of household effects currently available this section for dependents may authorize the payment of mercantile transportation costs

for the whole or such part of travel for which transportation in kind is not furnished, when such travel shall have been completed. When the person is in an "injured" status, the movement of dependents or household and personal effects provided for herein may be authorized only in cases where the anticipated period of hospitalization or treatment will be of prolonged duration. No transportation shall be authorized pursuant to this section unless a reasonable relationship exists between the condition and circumstances of the dependents and the destination to which transportation is requested. Beginning June 25, 1950, and for the purposes of this section only, the terms "household and personal effects" and "household effects" may include, in addition to other authorized weight allowances, not to exceed one privately owned motor vehicle, shipment of which at Government expense is authorized in those cases where the vehicle is located outside the continental limits of the United States or in Alaska. Mar. 7, 1942, e. 1666, § 12, 56 Stat. 146; Feb. 12, 1946, e. 6, § 1(a), 60 Stat. 5; Aug. 29, 1951, e. 356, § 1, 65 Stat. —.

Historical Note

1946 Amendment. Act Feb. 12, 1946, added to text, amended section by inserting former second proviso, the provisions of which now constitute the third sentence.

sions contained in fourth, fifth and sixth sentences.

Effective date of 1916 Amendment, Section 1(b) of Act Feb. 12, 1916, cited to text, provided that the amendment of section by section 1(a) of said Act Feb. 12, 1916, should take effect as of Sept. 8, 1939.

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

Congressional Comment: For legislative history and purpose of Act Feb. 12, 1940, cited to text, see 1940 U.S. Code Cong. Service, p. 1057.

Cross References

Authorization of claims for reimbursement, and ratification of payments prior to August 20, 1951, see section 1012a of this title.

§ 1012a. Authorization of claims for reimbursement; ratification of prior payments

(a) Claims for travel by dependents and for transportation of household and personal effects which arose under section 12 of the Missing Persons Act, as amended [section 1012 of this Appendix], incident to the death of a person in active service, and which were not presented for reimbursement or were presented and were rejected or disallowed, may, until three years after the date of approval of this Act [August 29, 1951], be presented for consideration or reconsideration and reimbursement under the provisions of section 12 of the Missing Persons Act [said section], as amended

Tit. 50, App. § 1012a MISSING PERSONS ACT

by [section 1 of] this Act: *Provided*, That this section shall be applicable only to such claims which arose on or after September 2, 1939, and prior to the date of approval of this Act [August 29, 1951].

(b) Payments made by disbursing officers for travel by dependents and for transportation of household and personal effects pursuant to section 12 of the Missing Persons Act, as amended [this section], on or after March 7, 1942, and prior to the date of approval of this Act [August 29, 1951], heretofore not allowed by virtue of inability to establish death or injury as a result of military or naval operations, are ratified.

(c) Payments made by disbursing officers on or after June 25, 1950, and prior to the date of approval of this Act [August 29, 1951], for the transportation, packing, and unpacking of privately owned motor vehicles transported under the conditions set forth in section 12 of the Missing Persons Act, as amended by section 1 of the Act [this section], are ratified. Aug. 29, 1951, c. 356, § 2, 65 Stat.

Historical Note

Codification. Section was not enacted as a part of the Missing Persons Act which is classified to sections 1001-1012 and 1013-1016 of this Appendix.

§ 1013. Income tax deferment for certain persons in Government service not in position to pay taxes because of service

Notwithstanding any other provision of law, in the case of any taxable year beginning after December 31, 1940, no Federal income-tax return of, or payment of any Federal income tax by—

(a) any individual in the military or naval forces of the United States, or

(b) any civilian officer or employee of any department who, at the time any such return or payment would otherwise become due, is a prisoner of war or is otherwise detained by any foreign government with which the United States is at war, or

(c) any individual in the military or naval forces of the United States serving on sea duty or outside the continental United States at the time any such return or payment would otherwise become due, shall become due until one of the following dates, whichever is the earliest:

(1) the fifteenth day of the third month following the month in which he ceases (except by reason of death or incompetency) to be a prisoner of war, or to be detained by any foreign government with which the United States is at war, or to be a member of the military or naval forces of the United States serving on sea duty or outside the continental United States, as the case may be, unless prior to the expiration of such fifteenth day he again is a prisoner of war, or is detained by any foreign government with which the United States is at war, or is a member of the military or naval forces of the United States serving on sea duty or outside the continental United States;

(2) December 31
(3) the fifteenth
which an executor,
taxpayer is appoint-
Such due date is pr-
of Internal Reven-
paying such tax, a
as provided in sec-
Code [sections 146;
assessment or coll-
or receivership.
tinental United St-
bia, and the terms
forces of the Uni-
United States, the
or Navy Nurse Com-
detic Survey, or the
18. 56 Stat. 146; 2

1947 Amendment, amended by Act Aug. 26, 1947, which changed turn date from "the 15th day of the third month following which the present war in Italy, and Japan is terminated, as claimed by the President, 31 Dec 1947".

Application of section 1001 of this Appendix, see section 1001 of this Appendix.

**Transfer of functions
of all officers of the**

MISSING PERSONS ACT Tit. 50, App. § 1013

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this section shall be applied or after September 30, 1947; or

Act [August 29, 1951] for travel by dependent personal effects pursuant to the Act, as amended [prior to the date of application not allowed by virtue of a result of military or

on or after June 27, 1948; Act [August 29, 1951] for privately owned

ations set forth in section 1 of this Act, c. 356, § 2, 65 Stat.

Such due date is prescribed subject to the power of the Commissioner of Internal Revenue to extend the time for filing such return or paying such tax, as in other cases, and to assess and collect the tax as provided in sections 146, 273, and 274 of the Internal Revenue Code [sections 146, 273, and 274 of Title 26] in cases in which such assessment or collection is jeopardized and in cases of bankruptcy or receivership. For the purpose of this section, the term "continental United States" means the States and the District of Columbia, and the terms "individual" or "member" of the military or naval forces of the United States means any person in the Army of the United States, the United States Navy, the Marine Corps, the Army or Navy Nurse Corps (female), the Coast Guard, the Coast and Geodetic Survey, or the Public Health Service. Mar. 7, 1942, c. 166, § 13, 56 Stat. 146; Aug. 8, 1947, c. 515, § 6, 61 Stat. 918.

Historical Note

1947 Amendment. Subsec. (c) (2) amended by Act Aug. 8, 1947, cited to text, which changed the final tax return date from "the fifteenth day of the third month following the month in which the present war with Germany, Italy, and Japan is terminated as proclaimed by the President" to "December 31, 1947".

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

Transfer of functions. All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but such plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Transfer of functions. The functions of all officers of the Department of Com-

merce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 5, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in note under section 501 of Title 5, Executive Departments and Government Officers and Employees. The Coast and Geodetic Survey, referred to in this section, is an agency within the Department of Commerce.

Limitation of section under other laws. Section 507(b) (1) of the Revenue Act of 1942, Act Oct. 21, 1942, 4:30 p.m., E. W. T., c. 619, Title V, provided as follows: "The amendments made by this section [adding sections 3804 and 3805 of Title 26 and section 527 of this Appendix] shall not be construed to shorten any period fixed under the provisions of section 13 or 14 of the Act approved March 7, 1942 (Public Law 490—77th Congress) [sections 1013 and 1014 of this Appendix], within which any act may be done, except that any action or proceeding authorized under section 3804(d) (1) of the Internal Revenue Code, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted without regard to the period so fixed."

Congressional Comment: For legislative history and purpose of Act Aug. 8, 1947, cited to text, see 1947 U.S. Code Cong. Service, p. 1608.

Tit. 50, App. § 1014 MISSING PERSONS ACT

§ 1014. Application of Act to persons besieged by enemy

The provisions of this Act [sections 1001-1016 of this Appendix], applicable to persons in the hands of an enemy, shall also apply to any person beleaguered or besieged by enemy forces. Mar. 7, 1942, c. 166, § 14, 56 Stat. 147.

Historical Note

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

§ 1015. Effective date and termination of Act

This Act [sections 1001-1016 of this Appendix], except sections 13, 16, 17, and 18 [sections 1013 and 1016, and former sections 1017 and 1018 of this Appendix], shall be effective from September 8, 1939, and shall remain in effect until the termination of the present war with Germany, Italy, and Japan, and for twelve months thereafter, or until such earlier time as the Congress by concurrent resolution or the President by proclamation may designate. Mar. 7, 1942, c. 166, § 15, 56 Stat. 147; Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092.

Termination of State of War, see page IX of this volume

Historical Note

References in text. Section 18 referred to in text and classified to section 1018 of this Appendix was repealed by Act June 16, 1942, c. 413, § 10, 56 Stat. 369, eff. June 1, 1942.

Effective date of 1942 Amendment. Amendment by Act Dec. 24, 1942, cited to text, as effective Sept. 8, 1939, see note under section 1003 of this Appendix.

1943 Amendment. Act Dec. 24, 1942 cited to text, substituted "and for twelve * * * may designate", for "as proclaimed by the President, and for twelve months thereafter."

Application of section to Selective Service Act of 1948. Section as applicable to inductees under the Selective Service Act of 1948, sections 451-454 and 455-471 of this Appendix, see note preceding section 1001 of this Appendix.

s 1016. Amendment of Civil Service Retirement Act

(a) The last sentence of subsection (c) of the first section of the Civil Service Retirement Act, approved May 29, 1930, as amended [section 691(c) of Title 5], is amended by striking out "any elective officer".

(b) Subsection (a) of section 2 of such Act of May 29, 1930, as amended [section 715 of Title 5], is amended by striking out "*: Provided, however, That no provision of this or any other Act relating to automatic separation from the service shall have any application whatever to any elective officer*".

(c) Subsection (a) of section 3 of such Act of May 29, 1930, as amended [section 693 of Title 5], is amended to read as follows:

"(a) This Act [Title 5, § 691 et seq.] shall apply to all officers and employees in or under the executive, judicial, and legislative branches of the United States Government, and to all officers and employees of the municipal government of the District of Columbia, except elective officers and heads of executive departments: *Provided*,

(d) The amount pay, or compensation of such Act of May the amendments m [affecting Title 5, credit of the civil-s ditional amounts r turned to such offic of this Act. Mar.

§ 1017. Authorization

Codification. Section
c. 166, § 17, 56 Stat. 1
executed.

§ 1018. Repealed.
June 1.

Section, Act Mar. 7, 1863, Stat. 148, related to b
for military and naval

MISSING PERSONS ACT Tit. 50, App. § 1018

by enemy
of this Appendix
shall also apply to
Mar. 7, 1942.

451-454 and 455-471
see note preceding Appendix.

], except sections
former sections 1617
September 8, 1939,
of the present war
months thereafter,
current resolution

Mar. 7, 1942, c.
56 Stat. 1092.

of this volume

of 1942 Amendment
et Dec. 24, 1942, eff.
ive Sept. 8, 1939, sec-
n 1003 of this Appen-

ction to Selective Ser-
vice as applicable to
the Selective Service Act
451-454 and 455-471 of
see note preceding Appen-

act
first section of the
1930, as amended
out "any elective

f May 29, 1930, a
1 by striking out
or any other Act
shall have any eff

f May 29, 1930, as
ad as follows:
to all officers and
legislative branch-
ers and employees
Columbia, except
ments: *Provided*

at this Act [Title 5, § 691 et seq.] shall not apply to any such officer or employee of the United States or of the municipal government of the District of Columbia subject to another retirement system for such officers and employees of such governments: *Provided further*, that this Act [Title 5, § 691 et seq.] shall not apply to any officer or employee in the legislative branch of the Government within the classes of officers and employees which were made eligible for the benefits of this Act [Title 5, § 691 et seq.] by the Act of July 13, 1937 [Title 5, §§ 693b-693d, 698b, 715d, and 719a], until he gives notice in writing to the disbursing officer by whom his salary is paid, of his desire to come within the purview of this Act [Title 5, § 691 et seq.]; and any officer or employee within such classes may, within sixty days after January 24, 1942, withdraw from the purview of this Act [Title 5, § 691 et seq.] by giving similar notice of such desire. In the case of any officer or employee in the service of the legislative branch of the Government on January 24, 1942, such notice of desire to come within the purview of this Act [Title 5, § 691 et seq.] must be given within the calendar year 1942. In the case of any officer or employee of the legislative branch of the Government who enters the service after January 24, 1942, such notice of desire to come within the purview of this Act [Title 5, § 691 et seq.] must be given within six months after the date of entrance to the service."

(d) The amounts deducted and withheld from the basic salary, pay, or compensation of any officer made ineligible for the benefits of such Act of May 29, 1930, as amended [Title 5, § 691 et seq.], by the amendments made by this section to such Act of May 29, 1930 [affecting Title 5, §§ 691(c), 693(a), 715(a)], and deposited to the credit of the civil-service retirement and disability fund, and any additional amounts paid into such fund by such officer, shall be returned to such officer within thirty days after the date of enactment of this Act. Mar. 7, 1942, c. 166, § 16, 56 Stat. 147.

Historical Note

Application of section to Selective Ser-
vice Act of 1948. Section as applicable to
this Appendix, see note preceding section
1001 of this Appendix.

§ 1017. Authorization of lock for Saint Marys Falls Canal, Michigan

Historical Note

Codification. Section, Act Mar. 7, 1942,
c. 166, § 17, 56 Stat. 148, has been ex-
ecuted.

§ 1018. Repealed. June 16, 1942, c. 413, § 19, 56 Stat. 369, eff.
June 1, 1942.

Historical Note

Section, Act Mar. 7, 1942, c. 166, § 18, 56 Stat. 148, related to base pay increases for military and naval personnel serving at sea or outside United States, and is now covered by section 237 of Title 37, Pay and Allowances.

50 App. § 1012 WAR AND NATIONAL DEFENSE

dependents, see sections 5565-5567 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see sections 555-557 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1010, Acts Mar. 7, 1942, c. 166, § 10, 56 Stat. 145; July 1, 1944, c. 371, § 6, 58 Stat. 681; Aug. 14, 1964, Pub.L. 88-428, § 1(7), 78 Stat. 437, provided for fact of dependency, and authority to determine, for that portion of this section applicable to civilian officers and employees and their dependents, see section 5568 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 556 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1011, Act Mar. 7, 1942, c. 166, § 1, 56 Stat. 116, related to settlement of accounts. For that portion of this section applicable to civilian officers and employees and their dependents, see sec-

tion 5567 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 557 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1012, Acts Mar. 7, 1942, c. 166, § 12, 56 Stat. 116; Feb. 12, 1946, c. 6, § 1(a), 60 Stat. 5; Aug. 29, 1951, c. 356, § 1, 65 Stat. 207; Apr. 4, 1953, c. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub.L. 85-217, § 1(d), 71 Stat. 492; Aug. 14, 1964, Pub.L. 88-428, § 1(8), 78 Stat. 437, provided for moving dependents and effects of persons dead, injured, missing, or captured, for sale of motor vehicles and other bulky items, and claims for proceeds. For portions of this section applicable to civilian officers and employees and their dependents, see section 5563 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 554 of Title 37, Pay and Allowances of the Uniformed Services.

§ 1012a. Authorization of claims for reimbursement; ratification of prior payments

Codification. Section, Act Aug. 29, 1951, c. 356, § 2, 65 Stat. 208, which was not enacted as part of the Missing Persons Act, sections 1001-1012 and 1013-1010 of this Appendix, (a) allowed presentation, for consideration, reconsideration or reimbursement during a period of 3 years following Aug. 29, 1951, of previously unpresented, rejected or disallowed claims for travel by dependents and for transportation of household and personal effects arising between Sept. 8, 1939, and Aug. 29, 1951, under section 1012 of this Appendix, (b) ratified payments for travel by de-

pendents and transportation of household and personal effects made by disbursing officers pursuant to section 1012 of this Appendix, on or after March 7, 1942, and prior to Aug. 29, 1951, previously not allowed by virtue of inability to establish death or injury as a result of military or naval operations and (c) ratified payments made on and after June 25, 1950, and prior to Aug. 29, 1951, for transportation, packing, and unpacking of privately owned motor vehicles transported under the conditions set forth in section 1012 of this Appendix.

§§ 1013-1017. Repealed. Pub.L. 80-554, § 8(a), Sept. 6, 1966, 80 Stat. 651, 654, 657, 658, 662

Section 1013, Acts Mar. 7, 1942, c. 166, § 13, 56 Stat. 146; Aug. 8, 1947, c. 515, § 6, 61 Stat. 918; Aug. 14, 1964, Pub.L. 88-428, § 1(9), 78 Stat. 437, provided for income tax deferment for certain persons in Government service not in position to pay taxes because of service. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5568 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 558 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1014, Acts Mar. 7, 1942, c. 166, § 14, 56 Stat. 147; Apr. 4, 1953, c. 17, § 1(e), 67 Stat. 21, related to application of the Missing Persons Act to persons besieged by a hostile force. For that portion of this section applicable to civilian officers and employees and their depend-

ents, see sections 5581-5584 and 5566 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see sections 551-554 and 558 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1015, Acts Mar. 7, 1942, c. 166, § 15, 56 Stat. 147; Dec. 24, 1942, c. 828, § 1, 56 Stat. 1002; Apr. 4, 1953, c. 17, § 1(f), 67 Stat. 21; Jan. 30, 1951, c. 3, 68 Stat. 7; June 30, 1955, c. 251, 69 Stat. 238; July 20, 1956, c. 658, 70 Stat. 595; Aug. 7, 1957, Pub.L. 85-121, 71 Stat. 341; Aug. 29, 1957, Pub.L. 85-217, § 1(e), 71 Stat. 493, prescribed the effective date.

Section 1016, Act Mar. 7, 1942, c. 166, § 16, 56 Stat. 147, amended the Civil Service Retirement Act.

Section 1017, Act Mar. 7, 1942, c. 160, § 17, 56 Stat. 148, authorized a lock for Saint Marys Falls Canal, Michigan.

SMALL BUSINESS MOBILIZATION ACT

ACT JUNE 11, 1942, C. 404, 56 STAT. 351

§§ 1101-1107.

Repeals. Act June 11, 1942, c. 404, §§ 1, 4, 56 Stat. 351, 353, formerly classified to sections 1101 and 1104 of this Appendix.

was repealed by Pub.L. 80-554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

WAR AND DEFENSE

ACT OF JULY 2, 1940

Sec. 1173. Construction authority for Armed Forces [New].
 1174. Same; activity reports by Sec. of Defense [New].
 1175. Same; application to section 40 of Title 40 [New].

ACT JUNE 28, 1940

Cross References. "Defense contracts," defined, see section 50 of Title 41. Contracts.

Honorable discharge from land naval forces as substitute for birth certificate required for defense employees.

§ 1152. Contracts for aircraft, vessels, and equipment

(4) Attendance of witnesses

For the purpose of obtaining information required, or making any investigation, [see subsection], the President may require by subpnea or otherwise the attendance of witnesses and the production of any documents or physical evidence which may be necessary, and testimony of witnesses and other documentary or physical evidence, in any place from any State, Territory, or District of the United States: *Provide* that records, or other documentary evidence, other than the place where such person is present, prior to the return date specified to, such person furnishes the records, or other documentary evidence, under oath to be a true and correct statement to the President as to the information and documentary evidence. Within the time that are paid witnesses in attendance shall not publish or discuss the paragraph which the President may furnish, which a request for confidential treatment of such information, unless the same thereof is contrary to the interest of the United States and anyone violating this provision shall be fined not exceeding two years, or both.

As amended Oct. 15, 1970, Pub. L. No. 91-452.

1970 Amendment. Subsec. (a) (4) of Pub. L. 91-452 struck out the provisions related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

Effective Date of 1970 Amendment. Amendment by Pub.L. 91-452 effective on the sixtieth day following the date of its enactment, July 2, 1970.

The (M)ising
Persons Act of
1942 has been
amended many times.

Nothing should be cited
from this copy.

SOURCE S

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5 § 5552

EMPLOYEES

Ch. 55

Ch. 55

accrued annual or vacation leave in accordance with section 5551 of this title; or

(2) elect to have the leave remain to his credit until his return from active duty.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 489.

Historical and Revision Notes

Reviser's Notes

Derivation: United States Code
5 U.S.C. 61a

Revised Statutes and Statutes at Large
Aug. 1, 1941, ch. 348, 55 Stat. 616.
Apr. 7, 1942, ch. 220, 56 Stat. 200.

Explanatory Notes.

The words "An employee as defined by section 2103 of this title" are coextensive with and substituted for "Employees of the United States Government, . . . (including employees of any corporation created under authority of an Act of Congress which is either wholly controlled or wholly owned by the United States Government, or any corporation, all the stock of which is owned or controlled by the United States Government, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress)".

The words "subsequent to May 1, 1940" are omitted as obsolete. The words "active duty in the armed forces" and "ac-

tive duty" are substituted for "active military or naval service in the land or naval forces of the United States" and "active military or naval service", respectively, on authority of the National Security Act of 1947, 61 Stat. 495, as amended. The words "by voluntary enlistment or otherwise" are omitted as unnecessary.

In paragraph (1), the words "in accordance with section 5551 of this title" are added on authority of former section 61b, which is carried into section 5551.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Library References

United States 200(7)

C.J.S. United States § 44.

SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

§ 5561. Definitions

For the purpose of this subchapter—

(1) "agency" means an Executive agency and a military department;

(2) "employee" means an employee in or under an agency who is a citizen or national of the United States or an alien admitted to the United States for permanent residence, but does not include a part-time or intermittent employee or native labor casually hired on an hourly or daily basis. However, such an employee who enters a status listed in paragraph (5) (A)–(E) of this section—

(A) inside the continental United States; or

(B) who is a resident at or in the vicinity of his place of employment in a territory or possession of the United

States or is solely as a is an employee termination by is the proxima (3) "depend (A) a w (B) an ent stepch (C) a d (D) a c (E) an head of th (4) "active employee; (5) "missin in active serv sent in a statu (A) mi (B) mi (C) in (D) ca (E) de but does not ing which he of duty with (6) "pay a (A) b (B) sp (C) in (D) b (E) b (F) s days.

Pub.L. 89-554, S

Ch. 55

dance with section
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Ch. 55

PAY ADMINISTRATION

5 § 5561

States or in a foreign country and who was not living there solely as a result of his employment;

is an employee for the purpose of this subchapter only on a determination by the head of the agency concerned that this status is the proximate result of employment by the agency;

(3) "dependent" means—

- (A) a wife;
- (B) an unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;
- (C) a dependent mother or father;
- (D) a dependent designated in official records; and
- (E) an individual determined to be dependent by the head of the agency concerned or his designee;

(4) "active service" means active Federal service by an employee;

(5) "missing status" means the status of an employee who is in active service and is officially carried or determined to be absent in a status of—

- (A) missing;
- (B) missing in action;
- (C) interned in a foreign country;
- (D) captured, beleaguered, or besieged by a hostile force;

or

(E) detained in a foreign country against his will; but does not include the status of an employee for a period during which he is officially determined to be absent from his post of duty without authority; and

(6) "pay and allowances" means—

- (A) basic pay;
- (B) special pay;
- (C) incentive pay;
- (D) basic allowance for quarters;
- (E) basic allowance for subsistence; and
- (F) station per diem allowances for not more than 90 days.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 489.

(5) (A)-(E) of

5 § 5561

EMPLOYEES

Ch. 55

Ch. 55

Historical and Revision Notes

Reviser's Notes

Derivation: United States Code
(1)-(4) 50A U.S.C. 1001

Revised Statutes and Statutes at Large
Mar. 7, 1942, ch. 160, § 1, 56 Stat. 143.
July 1, 1944, ch. 371, § 1, 58 Stat. 679.
May 16, 1947, ch. 70, § 1, 61 Stat. 96.
Aug. 29, 1957, Pub.L. 85-217, § 1(a), 71
Stat. 491.
Aug. 14, 1961, Pub.L. 88-428, § 1(1), (2),
75 Stat. 497.

(5) 50A U.S.C. 1002(a) (3)
through 66th words of
1st sentence, and 1st 28
words of 3d sentence, for
definition purposes).

Mar. 7, 1942, ch. 166, § 2(a) (3d through 664th words and 96th through 120th words of 1st sentence, and 1st 28 words of 3d sentence, for definition purposes); added.

(6) 50A U.S.C. 1014 (as applicable to § 1002(a) (1st sentence)).
50A U.S.C. 1002(a) (96th through 120th words of 1st sentence, for defining

July 1, 1944, ch. 371, § 2, 58 Stat. 679,
Apr. 4, 1963, ch. 17, § 1(a), 67 Stat. 21.
Aug. 20, 1957, Pub.L. 85-217, § 1(b) (1st
par.) 71 Stat. 491.
Aug. 14, 1964, Pub.L. 88-423, § 1(3) (A),
(C), 78 Stat. 437.
Mar. 7, 1912, ch. 166, § 14 (as applicable
to § 2(a) (1st sentence)), 56 Stat. 147.

Explanatory Notes

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

the General Accounting Office in the same manner as if they were in the executive branch.

In paragraph (1), the word "agency" is substituted for "department". The words "including such term when used in the amendment made by section 16" are omitted as surplusage. The words "an Executive agency and a military department" are coextensive with and substituted for "any executive department, independent establishment, or agency (including corporations) in the executive branch of the Federal Government" in view of the definitions in sections 105 and 102, and on authority of 5 U.S.C. 633a which provides that general legislation governing employment, compensation, and the status of employees of the United States applies to employees of

In paragraph (3)(A), the word "lawful" is omitted as unnecessary in view of the accepted recognition of the fact that the word "wife" means a lawful wife. In paragraph (3)(E), the words "head of the agency concerned or his designee" are substituted for "head of the department concerned, or subordinate designated by him".

The definitions in paragraphs (5) and (6), which do not appear in, but are based on, the source law are created for legislative convenience.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Payments to missing members of the uniformed services, see section 551 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

Notes of Decisions

Active service 3
Construction 1
Purpose 2

Library references

Ch. 55

Ch. 55

PAY ADMINISTRATION

5 § 5562

Notes

Titles and Statutes at Large

ch. 166, § 1, 56 Stat. 113.
 ch. 371, § 1, 58 Stat. 679.
 ch. 70, § 1, 61 Stat. 96.
 Pub.L. 85-217, § 1(b), 71
 L. Pub.L. 88-428, § 1(1), (2),
 ch. 166, § 2(n) (3d through
 4 and 90th through 120th
 st sentence, and 1st 28 words
 nec. for definition purposes);
 ch. 371, § 2, 58 Stat. 679.
 ch. 17, § 1(a), 67 Stat. 21.
 Pub.L. 85-217, § 1(b) (1st
 art. 401).
 Pub.L. 88-428, § 1(3) (A),
 § 437.
 ch. 166, § 14 (as applicable
 1st sentence), 56 Stat. 117.
 ch. 17, § 1(e), 67 Stat. 21.

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 (3)(E), the words "head of
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 title as outlined in the pref-
 iort.

is, see section 551 et seq. of

ences
 30(7, 9).
 1 States §§ 17, 41, 47.

1. Construction

To arriving at the intent of Congress in enacting this subchapter, it is necessary to construe all the provisions of the law together even if sometimes it seems not to be in strict accord with certain specific provisions when they are lifted from the body of the law and read out of the context. *Bell v. U. S.*, 1960, 181 F.Supp. 668, 149 Ct.Cl. 218, reversed on other grounds 318 U.S. 1230, 366 U.S. 393, 6 L.Ed.2d 365.

Indications that Congress intended to exclude any one type of allowance would have to be specific. *Dilks v. U. S.*, 1951, 97 F.Supp. 702, 110 Ct.Cl. 826.

2. Purpose

The primary purpose of former section 1001 et seq. of Title 50 App. [now this subchapter] was to alleviate financial hardship suffered by dependents of officers and employees reported as missing. *Bell v. U. S.*, Ct.Cl. 1961, 318 U.S. 1230, 366 U.S. 393, 6 L.Ed.2d 365.

3. Active service

Under this subchapter "active service" refers to person's status at time he became missing, and prisoners who were in active service when taken could not be determined to be not in active service when in prison camps. *Bell v. U. S.*, Ct.Cl. 1961, 318 U.S. 1230, 366 U.S. 393, 6 L.Ed.2d 365.

Where 1944 amendment to former section 1002 of Title 50 App. [now this section] did not purport to alter type of pay or allowance which person in active service who was missing was entitled to have credited to his account during period of his absence, and phrase "same pay and allowances" was exactly same language which appeared in original section of March 7, 1942, the law in that respect was the same after the amendment as before. *Hovenor v. U. S.*, 1951, 101 F.Supp. 463, 121 Ct.Cl. 77.

§ 5562. Pay and allowances; continuance while in a missing status; limitations

(a) An employee in a missing status is entitled to receive or have credited to his account, for the period he is in that status, the same pay and allowances to which he was entitled at the beginning of that period or may become entitled thereafter.

(b) Entitlement to pay and allowances under subsection (a) of this section ends on the date of—

(1) receipt by the head of the agency concerned of evidence that the employee is dead; or

(2) death prescribed or determined under section 5565 of this title.

That entitlement does not end—

(A) on the expiration of the term of service or employment of an employee while he is in a missing status; or

(B) earlier than the dates prescribed in paragraphs (1) and (2) of this subsection if the employee dies while he is in a missing status.

(c) An employee who is officially determined to be absent from his post of duty without authority is indebted to the United States for payments of amounts credited to his account under subsection (a) of this section for the period of that absence.

(d) When an employee in a missing status is continued in that status under section 5565 of this title, he continues to be entitled to

5 § 5562

EMPLOYEES

Ch. 55

Ch. 55

PA

have pay and allowances credited under subsection (a) of this section. Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 490.

Historical and Revision Notes

Reviser's Notes

Definitions	United States Code	Revised Statutes and Statutes at Large
(a)	50A U.S.C. 1002(a) (1st sentence, less last 46 words).	Mar. 7, 1942, ch. 166, § 2(a) (1st 2 sentences and 3d sentence, less 1st 28 words); added. July 1, 1944, ch. 374, § 2, 58 Stat. 679. Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21. Aug. 29, 1957, Pub.L. 85-217, § 1(b), 71 Stat. 491. Aug. 14, 1961, Pub.L. 88-428, § 1(3) (A), (B), 78 Stat. 437. Mar. 7, 1942, ch. 166, § 11 (as applicable to § 2(a) (1st sentence)), 56 Stat. 197. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(b)	50A U.S.C. 1014 (as applicable to § 1002(a) (1st sentence)).	
(c)	50A U.S.C. 1002(a) (last 46 words of 1st sentence, and 2d sentence).	
(d)	50A U.S.C. 1002(a) (2d sentence, less last 28 words).	Mar. 7, 1942, ch. 166, § 6 (2d sentence, as applicable to pay and allowances); added. Dec. 24, 1942, ch. 828, § 1 (1th par.), 56 Stat. 1093. Aug. 14, 1961, Pub.L. 88-428, § 1(5) (B), 78 Stat. 437.

Explanatory Notes.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words "An employee in a missing status" are substituted for the first 66 words of 50A U.S.C. 1002(a) to conform to the definitions in section 5561(2) and (5). The words "pay and allowances" are substituted for the enumeration of pay and allowances in the first sentence of 50A U.S.C. 1002(a) to conform to the definition in section 5501(0). The words "or is performing full-time training duty, other full-time duty, or inactive duty training" and "except that the pay and allowances for a person who is performing full-time training duty or other full-time duty without pay, or inactive duty training with or without pay, shall be that to which he would have been entitled if he had been performing full-time

active duty with pay" are omitted as inapplicable to civilian officers and employees.

In subsection (b), the words "under subsection (a) of this section" are inserted for clarity.

In subsection (c), the words "United States" are substituted for "Government" to conform to the style of this title. The words "under subsection (a) of this section" are inserted for clarity.

In subsection (d), the words "an employee in a missing status" are substituted for "a person missing under the conditions specified in section 2 of this Act" to conform to the definitions in section 5561(2) and (5).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Generally 3
Absence from post without a
Construction 1
Subsistence and quarters allow-

Library references

United States 23(7, 9),
C.J.S. United States §§ 17, 41,

1. Construction

Where at time individual was a prisoner of the Japanese and entitled to receive per diem for quarters and subsistence for permanently assigned personnel under this section providing continued pay and allowances while in captivity, entitled to have credit in pay account during period of allowances for subsistence and Dilks v. U. S., Ct.Cl.1950, 91 F.Supp. 433, opinion superseded 91 F.Supp. Ct.Cl. 438, motion overruled 119 F.Supp. 702.

2. Subsistence and quarters

Where plaintiff, government employee, was receiving per diem of \$8.00 for subsistence while traveling on continental limits of United States so traveling plaintiff was entitled to allowances to plaintiff was in fact and temporary per diem allowance for expenses and was not within scope of subchapter authorizing "same pay and allowances" for person captured by an enemy and entitled at beginning of such presence or became entitled to

§ 5563. Allotment

sumption
limitation

(a) An allotment (in United States savings bonds) for a missing status may be made notwithstanding the end of the allotment.

(b) In the absence of the employee concerned, he or his designee may be entitled to an allotment as circumstances permit the employee concerned

Ch. 55

Ch. 55

PAY ADMINISTRATION

5 § 5563

ubsection (a) of this section
190.

Notes

Statutes and Statutes at Large
 92, ch. 166, § 2(a) (1st 2 words and 3d sentence, less 1st 2 words added).
 11, ch. 371, § 2, 58 Stat. 679.
 3d, ch. 17, § 1(e), 67 Stat. 21.
 1957, Pub.L. 85-217, § 1(b), 71
 1.
 1961, Pub.L. 88-428, § 1(e), 75 Stat. 437.
 1962, ch. 166, § 11 (as applicable to 1st sentence), 56 Stat. 147.
 3d, ch. 17, § 1(e), 67 Stat. 21.

12, ch. 166, § 6 (2d sentence, as to pay and allowances);

92, ch. 828, § 1 (1th para.), 5d
 3d, Pub.L. 88-428, § 1(5) (B), 78

"with pay" are omitted as to civilian officers and

ction (b), the words "under (a) of this section" are inserted.

tion (c), the words "United substituted for "Government" to the style of this title. The subsection (a) of this section is inserted for clarity.

tion (d), the words "an employee in missing status" are substituted for "a person missing under the specified in section 2 of this term to the definitions in section 1 and (5).

changes are made to conform definitions applicable and the title as outlined in the report.

Notes of Decisions

Generally 3

Absence from post without authority 4

Construction 1

Subsistence and quarters allowances 2

Ilevenor v. U. S., 1951, 101 F.Supp. 465, 121 Ct.Cl. 77.

3. Generally

Compensation under this subchapter for period from date individual was reported missing in action until official date of death was due him as a contractual obligation of the government and not as a "gratuity" and was payable to executor of his estate and became a part of estate. Campbell v. Oliphant, 1917, 206 S.W.2d 408, 185 Tenn. 415.

4. Absence from post without authority

Either under 1814 Act governing pay of prisoners of war or under this subchapter, individuals who were captured during Korean hostilities and refused repatriation after Korean armistice were entitled to pay and allowances accruing during their detention as prisoners of war, at least in absence of definite administrative determination that after capture they were no longer in active service or were absent from posts of duty, other than subsequently abandoned determination as to advocacy of overthrow of government. Bell v. U. S., Ct. Cl.1061, 81 S.Ct. 1230, 306 U.S. 393, 6 L. Ed.2d 205.

Provision denying pay to a person officially determined to have been "absent from his post of duty without authority" was enacted to cover persons found to have been missing in the first place only by reason of such unauthorized absence, and would not cover person guilty of misconduct, after having been taken prisoner. Id.

§ 5563. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) An allotment (including one for the purchase of United States savings bonds) made by an employee before he was in a missing status may be continued for the period he is in that status, notwithstanding the end of the period for which the allotment was made.

(b) In the absence of an allotment or when an allotment is insufficient for a purpose authorized by the head of the agency concerned, he or his designee may authorize such a new or increased allotment as circumstances warrant, which is payable for the period the employee concerned is in a missing status.

5 § 5563

EMPLOYEES

Ch. 55

(e) All allotments from the pay and allowances of an employee in a missing status may not total more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the head of the agency concerned.

(d) A premium paid by the United States on insurance issued on the life of an employee, which is unearned because it covers a period after his death, reverts to the appropriation of the agency concerned.

(e) Subject to subsections (f) and (g) of this section, the head of the agency concerned or his designee may direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of an allotment from the pay and allowances of an employee in a missing status when that action is in the interests of the employee, his dependents, or the United States.

(f) When the head of the agency concerned officially reports that an employee in a missing status is alive, an allotment under subsections (a)-(d) of this section may be paid, subject to section 5562 of this title, until the date the head of the agency concerned receives evidence that the employee is dead or has returned to the controllable jurisdiction of the agency concerned.

(g) When an employee in a missing status is continued in that status under section 5565 of this title, an allotment under subsections (a)-(d) of this section may be continued, increased, or initiated.

(h) When the head of the agency concerned considers it essential for the well-being and protection of the dependents of an employee in active service (other than an employee in a missing status), he may, with or without the consent of the employee and subject to termination on specific request of the employee—

(1) direct the payment of a new allotment from the pay of the employee;

(2) increase or decrease the amount of an allotment made by the employee; and

(3) continue payment of an allotment of the employee which has expired.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 490.

Historical and Revision Notes

Reviser's Notes

Derivation:	United States Code	Revised Statutes and Statutes at Large
(a)	50A U.S.C. 1003 (1st sentence).	Mar. 7, 1912, ch. 160, § 3, 56 Stat. 144; Dec. 24, 1912, ch. 828, § 1 (1st par.), 56 Stat. 1092; July 1, 1914, ch. 371, § 3, 58 Stat. 680.
(b)	50A U.S.C. 1003 (2d sentence, less provisos).	
(c)	50A U.S.C. 1003 (1st proviso of 2d sentence).	
(d)	50A U.S.C. 1003 (2d proviso of 2d sentence).	

Ch. 55

Derivation: United States Code
(e) 50A U.S.C. 1003

(f) 50A U.S.C. 1003 (1st sentence).

(g) 50A U.S.C. 1003 (1st sentence, conformable to § 1 of this title).

(h) 50A U.S.C. 1003 (1st sentence, as applied to allotments).

50A U.S.C. 1003

Explanatory Notes.

Only that portion of the definition of "employee" which is applicable to employees and their dependents is codified in this section.

In subsection (a), the words "the head of the agency concerned . . . in a missing status" are substituted for the reference to "person" under section 2 of this Act. The word "head" is credited with pay and allowances to conform to the definitions of "head" in sections 5561(2) and (5). The word "otherwise provided herein" is omitted as unnecessary.

In subsection (b), the words "the head of the agency concerned" are substituted for "head of the agency concerned . . . in a missing status" and "the head of the agency concerned, or such subagent as he may designate". The word "subagent" is substituted for "subagent" to conform to the definition in section 5561(2).

In subsection (c), the words "the head of the agency concerned" are omitted as surplusage. The word "employee" is substituted for "absent person" to conform to the definitions in sections 5561(2) and (5).

In subsection (d), the words "the head of the agency concerned" are substituted for "head of the agency concerned" to conform to the style of this section. The word "employee" is substituted for "absent person" to conform to the definition of "employee" in section 5561(2).

United States Code 30(7, 9).

T. 5 U.S.C.A. §§ 5101 to 8500

Ch. 55

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allowances prescribed by

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■ Statutes at Large
§ 3, 56 Stat. 144,
§ 1 (1st par.), 56
§ 3, 58 Stat. 680.

Ch. 55

PAY ADMINISTRATION

5 § 5563

Derivation: United States Code

(e) 50A U.S.C. 1004

(f) 50A U.S.C. 1006 (1st sentence).

(g) 50A U.S.C. 1014 (as applicable to § 1006 (1st sentence)).

(h) 50A U.S.C. 1006 (2d sentence, as applicable to allotments).

(i) 50A U.S.C. 1007

Revised Statutes and Statutes at Large

Mar. 7, 1942, ch. 166, § 4, 56 Stat. 114.

Dec. 24, 1942, ch. 828, § 1 (2d par.), 56 Stat. 1093.

July 1, 1944, ch. 371, § 4, 58 Stat. 680.

Mar. 7, 1942, ch. 166, § 6 (1st sentence and 2d sentence, as applicable to allotments); added.

Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093.

Apr. 4, 1953, ch. 17, § 1(b), 67 Stat. 21.

Aug. 14, 1964, Pub.L. 88-428, § 1(5), 78 Stat. 437.

Mar. 7, 1942, ch. 166, § 14 (as applicable to § 6 (1st sentence)), 56 Stat. 147.

Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.

Mar. 7, 1942, ch. 166, § 7, 56 Stat. 115.
Aug. 14, 1964, Pub.L. 88-428, § 1(6), 78 Stat. 437.

Explanatory Notes.

Only that portion of the source law
which is applicable to civilian officers
and employees and their dependents is
codified in this section.

In subsection (a), the words "employee
... in a missing status" are substituted
for the reference to "person... entitled
under section 2 of this Act to receive or
be credited with pay and allowances" to
conform to the definitions in section
5561(2) and (5). The words "except as
otherwise provided herein" are omitted
as unnecessary.

In subsection (b), the words "head of
the agency concerned, he or his designee"
are substituted for "head of the department
concerned... head of the department
concerned, or such subordinate as
he may designate". The word "employ-
ee" is substituted for "person" to conform
to the definition in section 5561(2).

In subsection (c), the words "in effect"
are omitted as surplusage. The words
"employee in a missing status" are
substituted for "absent person" to conform
to the definitions in section 5561(2)
and (5).

In subsection (d), the words "United
States" are substituted for "Government"
to conform to the style of this title. The
word "employee" is substituted for "per-
son" to conform to the definition in sec-
tion 5561(2).

In subsection (e), the words "head of
the agency concerned or his designee"
are substituted for "head of the department
concerned, or such subordinate as
he may designate". The words "em-
ployee in a missing status" are substituted
for "person entitled to receive or
be credited with pay and allowances under
section 2 of this Act" to conform to the
definitions in section 5561(2) and (5). The
words "United States" are substituted
for "Government" to conform to the
style of this title.

In subsections (f) and (g), the words
"employee in a missing status" are
substituted for "person missing under
the conditions specified in section 2 of
this Act" to conform to the definitions in
section 5561(2) and (5).

In subsection (h), the words "employee
in a missing status" are substituted for
"persons entitled under section 2 or 14 of
this Act to receive pay and allowances"
to conform to the definitions in section
5561(2) and (5). In paragraph (2), the
words "herefore or hereafter" are omitted
as unnecessary.

Standard changes are made to conform
with the definitions applicable and the
style of this title as outlined in the pre-
face to the report.

Library References

United States 30(7, 9).

C.J.S. United States §§ 17, 41, 17.

U.S. Code
Annotated

Title 5

5101 to 8500